

OGC Has Reviewed

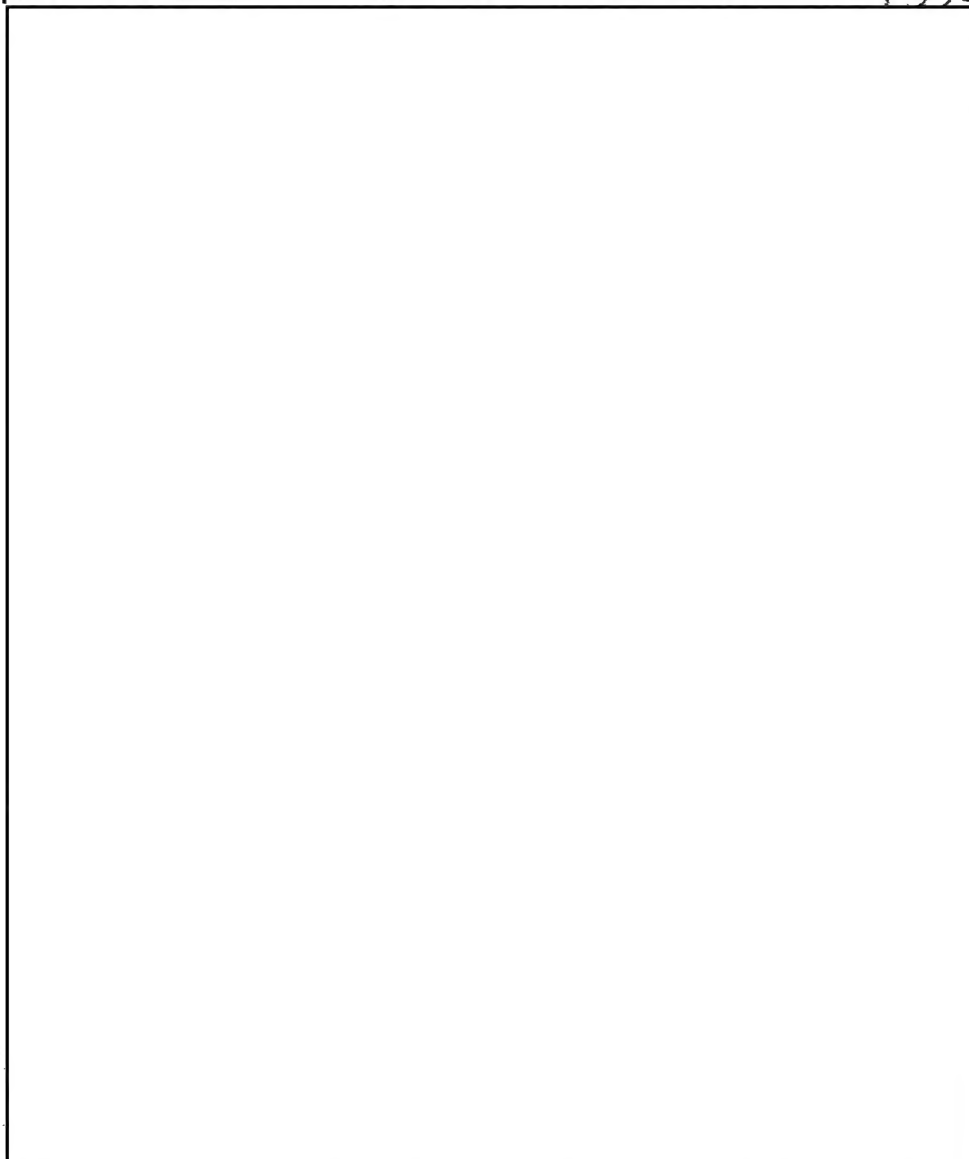
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Executive Registry

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DEPARTMENT OF STATE

December 20, 1976

MEMORANDUM

TO : HEADS OF ALL FEDERAL AGENCIES

FROM : The Chief of Protocol *A.J.B.*

SUBJECT: Foreign Gifts and Decorations Act of
1966: Employee Responsibilities

The following text of the memorandum issued to all agency heads on July 1, 1974, is repeated to ensure that all Federal employees are reminded at this time of their responsibilities under the Foreign Gifts and Decorations Act of 1966 and the implementing regulations.

"The Foreign Gifts and Decorations Act of 1966 (Public Law 89-673), as amended in 1967 (Public Law 90-83), 5 USC §7342, 22 USC §2621, declares Congressional policy that employees of the United States Government shall not request or otherwise encourage the tender of any gift or decoration from any foreign government or official thereof, and may not accept or retain any such gift or decoration, except as specifically provided in the Act. By Executive Order 11320, dated December 12, 1966 (31 F.R. 15789), the President delegated to the Secretary of State the authority to prescribe rules and regulations to carry out the purposes of the Act. These regulations were published on April 28, 1967 (32 F.R. 6569) and are contained in Title 22, Code of Federal Regulations, Part 3.

"In furtherance of the responsibility delegated to the Secretary of State, this memorandum is being circulated to remind all employees of their responsibilities under the Act and regulations and to respond to inquiries concerning their provisions which have arisen from time to time. It is requested that all agency heads bring this information to the attention of employees of their agencies.

- 2 -

"The Act is applicable to all employees in the United States Government as defined in 5 USC §7342. In addition, members of the families and households of such employees are included within the Act's coverage. These persons are under an obligation not to accept gifts from foreign governments or their representatives, except when the gift is of minimal value and tendered as a souvenir or mark of courtesy, or except under circumstances in which refusal of a gift of more than minimal value "would be likely to cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States." Decorations, including "any order, device, medal, insignia or emblem" from a foreign government, may be accepted, retained and worn only if "tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance" and only upon approval by the employee's agency head, with concurrence of the Secretary of State. These restrictions affect gifts and decorations received on or after October 14, 1966.

"Gifts of more than minimal value which are accepted by employees under circumstances described in the preceding paragraph may not be retained, but rather become the property of the United States and must be deposited with the Chief of Protocol for disposal. It is emphasized that members of the families of employees are subject to the same standards and responsibilities under the Act and regulations as the employees themselves. A "member of the family and household" is defined as "a relative by blood, marriage or adoption who is a resident of the household." An adult son or daughter, living in his or her own household, and not individually covered by the Act, would, thus, not be subject to its requirements. Even if a gift is tendered by a foreign government or foreign official for basically personal, as opposed to official, reasons, it must be treated as property of the United States and so deposited.

"Under certain circumstances, the Chief of Protocol may authorize the agency in which the donee is employed to retain the gift for official use (such as display in a public room); otherwise, the Chief of Protocol must forward it to the General Services Administration for

- 3 -

disposal. All gifts which become property of the Government under the Act must be handled in this way. All employees and family members covered by the law and regulations must deposit such gifts with the Chief of Protocol as quickly as possible.

"In view of the importance of the matters described above, heads of agencies are encouraged to assist employees in familiarizing themselves with their individual responsibilities. The Department of State would be pleased to render further assistance in this effort and will respond to any inquiries which may be raised."

While not so stated in the memorandum quoted above, by regulation the term "gift of minimal value" is currently defined as one having a retail value not in excess of \$50 in the United States. The regulations also place on the donee the burden of proof to establish that a gift from a foreign government is of minimal value as defined.

UNCLASSIFIED			CONFIDENTIAL			SECRET		
OFFICIAL ROUTING SLIP								
TO	NAME AND ADDRESS					DATE	INITIALS	
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ACTION			DIRECT REPLY			PREPARE REPLY		
APPROVAL			DISPATCH			RECOMMENDATION		
COMMENT			FILE			RETURN		
CONCURRENCE			INFORMATION			SIGNATURE		
<p>Remarks: Subject: Foreign Gifts</p> <p>This follows close on the heels of the publishing of our own Regulation. In view of the fact the memorandum asks that employees be assisted in familiarizing themselves with their responsibilities in this regard, it might make sense to put this out as a Notice adding to it a reference to our Regulation which goes beyond the attached.</p> <p>Give me a call if you have a problem.</p> <p>cc: D/Pers Att: DD/A 76-6395 dtd 12/21/76</p>								
FOLD HERE TO RETURN TO SENDER								
FROM: NAME, ADDRESS AND PHONE NO.						DATE		
EO/DDA						12/76		
UNCLASSIFIED			CONFIDENTIAL			SECRET		

FORM NO. 237 Use previous editions

USGPO: 1976 - 202-953

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STATINTL EO-DDA [redacted] pao (29 Dec 76)

Distribution:

Orig RS - C/RCB w/Orig of Att

1 - D/Pers w/cy of Att

1 - DDA Subject w/cy of Att + background (DDA 76-4642)

1 - DDA Chrono w/cy of Att

1 - RFZ Chrono w/cy of Att

DDA 76-6395: Memo dtd 20 Dec 76 to Heads of All Federal Agencies fr Chief of Protocol at D/State, subj: Foreign Gifts and Decorations Act of 1966: Employee

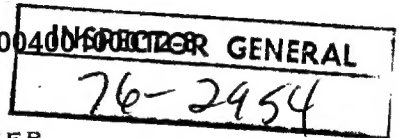
Responsibility

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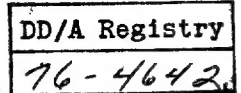
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16 SEP 1976

DD/A Registry
File *Personnel*



MEMORANDUM FOR: Deputy Director for Operations
Deputy Director for Administration
Legislative Counsel
General Counsel

FROM : John H. Waller
Inspector General

SUBJECT : Agency Policy on Gifts and the
Proxmire Amendment to the Foreign
Relations Authorization Act for
Fiscal Year 1977

REFERENCE : Inspector General Memorandum for
Deputy Director of Central Intelligence
dated 4 August 1976, Same Subject

1. On 13 September 1976 the Deputy Director of Central Intelligence approved the study group recommendations made in referenced memorandum.

2. I wish to commend the individual members of the study group for their contributions to this review which was characterized by the DDCI as "excellent work."

3. It is requested that addressees take action, as specified, to implement the approved recommendations.

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OGC 76-4307
6 August 1976

MEMORANDUM FOR: Inspector General

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ATTENTION:

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FROM:

Office of General Counsel

SUBJECT: Agency Policy on Gifts and the Proxmire
Amendment to the Foreign Relations
Authorization Act for FY 1977

REFERENCE: Your Memo, Same Subj, dtd 15 July 1976

1. Referenced memorandum adequately provides for the protection of gift-giving as an operational practice by the Operations Directorate.

2. The memorandum follows the guidelines discussed in the working group. As an additional point to include in the memorandum, we suggest that the difference between American and foreign cultural mores be strongly noted so as not to blind us into assuming that American culture espouses universal mores applicable equally throughout the world. The concept of gift-giving and gift-receiving bears a centrally important role in many foreign cultures. Disdain for the differing cultures in which the Agency functions can only hinder Agency operations while at the same time continuing the image of the "ugly American."

3. We concur in the distinctions drawn between "gifts" and "consideration." When the revised draft is finalized we would like to receive a copy.

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		Executive Registry
MEMORANDUM FOR: EO/DDA		76-2359/8
<p>The attached package has been approved by DDCI with the knowledge of the DCI. Please note the three recommendations in para 5 of the basic memo. "a" and "c" both appear to require DDA action. Can you farm out same? We will contact OLC regarding "b".</p>		
		Thanks.
		<div style="border: 1px solid black; height: 60px; width: 100%;"></div>
		By DDCI
<i>Blake</i>		13/9/76 (DATE)
FORM NO. 101 1 AUG 54	REPLACES FORM 10-101 WHICH MAY BE USED.	
		(47)

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DD/A Registry

INSPECTOR GENERAL

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76-2354/3

MEMORANDUM FOR: Deputy Director of Central Intelligence

FROM : John H. Waller
Inspector General

VIA : Deputy Director for Operations
Deputy Director for Science & Technology
Deputy Director for Administration
Legislative Counsel
General Counsel

SUBJECT : Agency Policy on Gifts and the Proxmire
Amendment to the Foreign Relations
Authorization Act for Fiscal Year 1977

REFERENCE : HF

1. Action Requested: As per your request a study group was organized to review the overall Agency policy on gift giving. It is recommended that you approve the study group recommendations contained in paragraph 5.

2. Background: On 29 March 1976 the U.S. Senate passed a version of the Foreign Relations Act of 1977 which contained an amendment (Amendment 1521, also termed the Proxmire Amendment) which restricts U.S. Government employees from giving gifts, in cash or goods, in excess of \$50. The Proxmire Amendment has been dropped for the present term of Congress but it is entirely possible that Senator Proxmire or some other Congressman might propose such legislation in the future. Given the possible ramifications of the amendment, if adopted, the Deputy Director of Central Intelligence requested the Inspector General to organize a group within the Agency to review the overall Agency policy on gift giving, and to advise him on what our policy should be and how the current guidelines could best be modified. Representatives of the DDO, the DDS&T, the DDA, the OLC, the OGC, and the IG

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met on several occasions to consider the problem. Agency policy on gifts is outlined in referenced regulations. Copies of these regulations are attached herewith (Attachment A).

3. Findings: As a result of these meetings and contributions from the various representatives, the following findings emerged:

a. In the majority of cases where gifts are given, it is predicated on a quid-pro-quo understanding. In these cases the word "consideration" might be more appropriate than "gift." The word "consideration" as defined in Webster's New World Dictionary is as follows: "in law - something of value given or done in exchange for something of value given or done by another in order to make a binding contract."

b. The DDO depends on gifts as a form of compensation. It is a tradecraft instrument. In many situations the monetary value of the gift is less important than its personal significance to the recipient.

c. The connotation of the word "gift" is broader than under American usage, which complicates its use in American legislation or statements of standards, especially in the intelligence world. Many cultures recognize and practice gift giving in a far wider context than the friendship level in the U.S. When a foreign official presents a valuable personal gift to a Washington official he has never met before, there can be no pretense that the gift is personal. It is, instead, a reflection of the esteem of the giver for the office of the recipient.

d. In many countries it is a serious breach of courtesy not to remember associates on religious holidays or family events and ceremonial occasions.

e. Under special circumstances the Agency does give gifts in the true sense of the word. Example, a wedding gift to a prominent foreign personage with whom the Agency does business. The use of gifts and

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payments, as inducements to establish productive foreign intelligence relationships, is an established practice and one which is consistent with the customs of the receivers' countries and cultures. Prominent persons who have neither the need nor the desire for a formalized remunerative arrangement with the Agency, but who provide high-level intelligence or support often expect and accept rewards in the form of presents (considerations).

f. Agency representatives stressed the point that the use of gifts in Agency activities is an integral part of the broader and very basic process necessary to establish and maintain productive intelligence relationships. Gifts also are often awarded to provide extraordinary rewards for exceptional service. In these cases gifts are, in effect, a form of consideration.

g. In some cultures gifts (considerations) are the only honorable way to say thank you to host country intelligence officials who allow us to operate within their jurisdiction.

h. Many proud but poor foreign officials can be compensated for favors rendered by gift giving (considerations).

i. In some cultures, not to exchange gifts is discourteous.

j. Statistics indicate responsible judgment by Agency officers in choosing the types of gifts given and in the amount spent for each item. The choices have not been lavish and the costs not excessive.

k. Agency policy on Government employees giving gifts to other employees or receiving gifts from other employees is adequate, clear and does not need revision (HR)

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1. The OLC has prepared an unclassified fact sheet on legislative proposals restricting the receipt and giving of gifts by U.S. Government officials. It was intended to be used as the basis for discussion with Senator Proxmire at the appropriate time (not necessarily waiting for the Senator or another Congressman to propose further legislation in this area) to make known to him our problems with such proposed legislation in the hope that any further legislative proposals would allow for Agency procedures. A copy of the OLC fact sheet together with amendatory language which could be used in the context of a legislative proposal identical or similar to the Proxmire gift amendment is attached herewith (Attachment B). The amendment would remove from the provision of such a proposal, "gifts" related to foreign intelligence activities.

m. The Department of State was delegated authority by the President in 1966 to establish rules and regulations necessary to carry out the purposes of the Foreign Gift and Decorations Act. State regulations provide that foreign gifts received by U.S. Government employees and their families be deposited with the Chief of Protocol if the retail value exceeds \$50. This has posed a serious problem to the Agency in the past because protocol records are available to the public and in most of our foreign gift cases neither the donor or donee could be openly identified. As a result of recent negotiations between the Agency and the Office of Protocol an exception has been granted in the attached memorandum (Attachment C) which permits us to omit the names of donor and donee or other pertinent information about foreign gifts being deposited with them. With this agreement we will be able to comply fully with the provisions of the Foreign Gift and Decorations Act.

4. Conclusions: The phrasing of the Proxmire Amendment restricting U.S. Government employees from giving gifts in excess of \$50 to foreign persons, if narrowly interpreted to include operationally motivated "considerations," would seriously hinder foreign intelligence gathering activities. The practice of

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"gift giving" to establish relationship of trust in foreign intelligence liaison activities could also be affected adversely by this provision. Moreover, the requirement that the circumstances surrounding gifts to foreign persons be detailed in annual presidential report to Congress could conflict with the legal responsibilities of the Director of Central Intelligence to protect intelligence sources and methods. A prohibition against accepting of ceremonial and other gifts would be an affront to foreign persons and would work against the need to establish relations of trust and equality that are necessary to develop productive interchanges.

5. Recommendations: The following recommendations are submitted for your consideration:

a. That in the Agency accounting process, in any given situation where a monetary or tangible gratuity, is given to a representative of a foreign power, a distinction should be made as to whether it is a true gift or a consideration for establishing a bona fide relationship for foreign intelligence purposes.

b. That the OLC fact sheet and the proposed amendatory language which could be used in the context of a legislative proposal identical or similar to the Proxmire Gift Amendment be approved by all addressees.

c. That the DDA in collaboration with the DDO and OGC rewrite extant Agency regulations on gift giving to better reflect Agency rationale and the distinction between a true gift and a "consideration" given in lieu of compensation as an act of tradecraft. The new regulation should direct (1) that, insofar as it is operationally feasible, foreigners be discouraged from presenting expensive gifts to Agency personnel; (2) that gifts, which are in fact considerations or tradecraft instruments of payment, should be paid from operational funds; (3) in those cases in which it is determined that true gifts to foreigners are necessary, the value of such gifts should

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not exceed \$50 except on the approval of the DDO in exceptional circumstances, but if a Proxmire-type amendment is passed, then of course the value of such true gifts could not exceed the limit set by the legislation and would be subject to the open reporting requirements thereunder; and (4) that officers selecting or recommending gifts for foreigners should give consideration to items with appropriate sentimental as opposed to cash value and with a ring of American culture whenever possible.

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[Redacted]
John H. Waller

Attachments a [Redacted]

APPROVED: [Redacted]

9/13/76

DISAPPROVED: _____

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24. **GIFTS AND DECORATIONS**

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- a. No Agency employee may solicit or accept, directly or indirectly, from any person, corporation, or group, domestic or foreign, anything of economic value such as gift, gratuity, or favor, if it might reasonably be interpreted by others as being of such a nature that it could affect his impartiality as an Agency employee, or if the employee has reasons to believe that the giver
- (1) has or is seeking to obtain contractual or other business relationships with the Agency;
 - (2) has interests which may be substantially affected by the employee's performance or nonperformance of his official duty; or
 - (3) is in any way attempting to influence the employee's official actions.
- b. An employee is forbidden by law from soliciting contributions from other employees for a gift to a supervisor, or from accepting a gift from employees who receive lower salaries than he receives.
- c. No employee may request or otherwise encourage the presentation of a decoration or a gift from a foreign government. If an employee or a member of his family or household receives a gift or decoration from a foreign government, he must report the circumstances immediately by memorandum to the Director of Personnel. Decorations or other items of an honorary value which are received may be retained by the recipient, subject to approval by the Director of Personnel. Gifts, other than decorations, received from a foreign government may be retained by the employee if they have a retail value not in excess of \$50 in the United States. A gift of more than \$50 is considered accepted on behalf of the United States and will be deposited by the donee for use and disposal as the property of the United States.

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Acceptance of Gifts, Awards, and Decorations)

25. **POLITICAL ACTIVITIES**

- a. Participation by Federal employees in political activities is limited by the Hatch Act. This law provides severe penalties for violations, whether willful or not. In accordance with the Hatch Act a Federal employee may not
- (1) take leave to participate in a political campaign.

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Revised: 14 June 1974

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FACT SHEET ON LEGISLATIVE PROPOSALS RESTRICTING THE RECEIPT AND GIVING
OF GIFTS BY U.S. GOVERNMENT OFFICIALS

Recently, certain legislative proposals have been considered by the Congress that would place restrictions on the giving and receipt of gifts by Government officials. It appears that such proposals are not intended to cover or apply to operational activities of intelligence organizations, but the broad language employed in one such proposal arguably could be construed to apply to foreign intelligence activities.

The use of gifts and payments, as inducements to establish and maintain productive foreign intelligence relationships, is an established practice. A law that would, for example, restrict gift-giving to foreigners, by U.S. officials, by placing an arbitrary dollar limit on all undefined "gifts," would severely hinder foreign intelligence-gathering activities. The context in which "gifts" are employed to establish relationships of trust in the foreign intelligence environment, and to disguise compensation for the furnishing of intelligence information to the U.S. Government, clearly establishes that "gifts," as might be used by U.S. foreign intelligence organizations, are more properly a form of consideration rather than *per se* "gifts." Foreigners who would be adverse to providing information in return for monetary compensation, might very often provide information if "in return" they are given certain non-pecuniary "gifts."

The use of gifts--generally limited to personal, ceremonial items--to establish and maintain relationships of trust in foreign intelligence liaison activities, could also be adversely affected by such restrictive legislation. 5 U.S.C. 7342 places limitations on the retention, by U.S. officials, of gifts from foreigners, and additional restrictions that could be applied to foreign intelligence activities, would appear unnecessary and would remove the flexibility necessary for U.S. officials to work productively with foreign liaison services.

An additional provision, requiring that circumstances surrounding gifts to foreigners be detailed in a report to Congress, could conflict with the statutory responsibilities of the Director of Central Intelligence to protect intelligence sources and methods (50 U.S.C. 403). A statutory conflict could also arise in this context, in view of the statutory authority granted the CIA to expend appropriated sums as necessary without having to account publicly therefor (50 U.S.C. 403j).

POSSIBLE AMENDATORY LANGUAGE FOR A GIFT RESTRICTION PROVISION SIMILAR OR IDENTICAL TO THAT PROPOSED BY SENATOR WILLIAM PROXMIRE ON 29 MARCH 1976:*

1. Amend Section 20 (a) to read [no property purchased with] funds appropriated under this Act [in excess of \$50 and no] funds appropriated under this Act [in excess of \$50 may be given to any person of any foreign country.]

Comment: This amended section would limit the dispositive provisions of the gift amendment to funds appropriated under the State Department Authorization Act and therefore would not include monies available to and utilized by the CIA.

2. Amend Section 20 (b) (1) to read [any gift given on behalf of any person] acting in any diplomatic or counselor activity or capacity on behalf of the U. S. Government [to any official of any foreign country; and].

Comment: As amended, this section would restrict gift giving only by those U. S. officials acting in furtherance of their official diplomatic or counselor duties and not actions undertaken by Agency officers in the performance of their responsibilities as intelligence officers.

3. Delete entirely that section of the Proxmire amendment which would amend Section 7342 of Title 5, U.S.C.

Comment: The deletion of this amendment would retain existing statutory restrictions related to the acceptance and retention of gifts by U. S. Government employees; Section 7342 of Title 5 fully and properly addresses this issue.

*original language bracketed and new language underlined

Mr. PROXMIRE. Mr. President, I call up my amendment No. 1521 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, between lines 17 and 18, insert the following new section:

"FOREIGN GIFTS"

"Sec. 103. (a) The Act entitled 'An Act to provide certain basic authority for the Department of State', approved August 1, 1956, as amended, is amended by adding at the end thereof the following new section:

"Sec. 20. (a) No property purchased with appropriated funds in excess of \$50 and no appropriated funds in excess of \$50 may be given to any person of any foreign country.

"(b) Not later than thirty days following the end of each fiscal year, the President shall transmit a report to the Speaker of the House of Representatives and the President of the Senate describing fully and completely—

"(1) any gift given on behalf of any person by, or with the assistance of, any officer or employee of the United States to any person of any foreign country; and

"(2) the activities of such officer or employee with respect to the giving of such gift.

"(c) Any financial transaction involving any funds made available to meet unforeseen emergencies arising in the Diplomatic and Consular Service shall be audited by the Comptroller General and reports thereon made to the Congress to such extent and at such times as he may determine necessary. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property pertaining to such financial transaction and necessary to facilitate the audit."

"(b) (1) Section 7342 of title 5, United States Code, is amended—

"(A) by striking out the section caption and inserting in lieu thereof the following: "'7342. Foreign gifts and decorations';

and

"(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Congress does not consent to the accepting or retaining by an employee of any gift. No gift may be accepted by an employee."

"(2) Item 7342 in the analysis of subchapter IV of chapter 73 of such title 5 is amended to read as follows:

"7342. Foreign gifts and decorations."

"(c) The amendments made by this section shall apply only with respect to gifts tendered on or after the date of enactment of this Act."

On page 3, line 20, strike out "Sec. 103" and insert in lieu thereof "Sec. 104."

On page 4, line 2, strike out "Sec. 104" and insert in lieu thereof "Sec. 105."

On page 4, line 17, strike out "Sec. 105" and insert in lieu thereof "Sec. 106."

On pages 8, line 14, strike out "Sec. 106" and insert in lieu thereof "Sec. 107."

is immediate consideration.
The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PROXMIER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, between lines 17 and 18, insert the following new section:

"FOREIGN GIFTS"

"Sec. 103: (a) The Act entitled 'An Act to provide certain basic authority for the Department of State', approved August 1, 1958, as amended, is amended by adding at the end thereof the following new section:

"Sec. 20. (a) No property purchased with appropriated funds in excess of \$50 and no appropriated funds in excess of \$50 may be given to any person of any foreign country.

"(b) Not later than thirty days following the end of each fiscal year, the President shall transmit a report to the Speaker of the House of Representatives and Committee on Foreign Relations of the Senate describing fully and completely—

"(1) any gift given on behalf of any person by, or with the assistance of, any officer or employee of the United States to any person of any foreign country; and

"(2) the activities of such officer or employee with respect to the giving of such gift.

"(c) Any financial transaction involving any funds made available to meet unforeseen emergencies arising in the Diplomatic and Consular Service shall be audited by the Comptroller General and reports thereon made to the Congress to such extent and at such times as he may determine necessary. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property pertaining to such financial transaction and necessary to facilitate the audit."

"(b) (1) Section 7342 of title 5, United States Code, is amended—

"(A) by striking out the section caption and inserting in lieu thereof the following: '§ 7342. Foreign gifts and decorations'; and

"(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Congress does not consent to the accepting or retaining by an employee of any gift. No gift may be accepted by an employee."

"(2) Item 7342 in the analysis of subchapter IV of chapter 73 of such title 5 is amended to read as follows:

"7342. Foreign gifts and decorations."
"(c) The amendments made by this section shall apply only with respect to gifts tendered on or after the date of enactment of this Act."

On page 3, line 20, strike out "Sec. 103." and insert in lieu thereof "Sec. 104."

On page 4, line 2, strike out "Sec. 104." and insert in lieu thereof "Sec. 105."

On page 4, line 17, strike out "Sec. 105." and insert in lieu thereof "Sec. 106."

On pages 8, line 14, strike out "Sec. 108." and insert in lieu thereof "Sec. 107."

Mr. PROXMIER. Mr. President, I have discussed this amendment with the manager of the bill, the ranking minority member, and as far as I know, they are willing to accept the amendment.

This amendment, incidentally, has been passed by the Senate before; it did not survive conference, but I hope it will this time.

Mr. President, as the deadline for the filing of Federal income taxes draws closer,

icans gnashing their teeth in disgust over what I consider to be one of the most wasteful, unnecessary, and inappropriate traditions ever perpetuated with tax dollars. I am referring to the giving and receiving of gifts by officials of both the United States and foreign countries.

Today, I am reintroducing an amendment to the State Department authorization bill—S. 3168—that, if enacted, would virtually eliminate the wasteful practice of giving and receiving gifts valued at over \$50, by U.S. and foreign government officials. Second, the amendment would call for the President to report annually to the Speaker of the House and the Committee on Foreign Relations of the Senate on all gifts provided with nonappropriated funds or from private sources passing through the Government to any person of a foreign country. Finally, my amendment would grant authority to the General Accounting Office to audit annually the Diplomatic and Consular Service Fund at the State Department—a catch-all slush fund that has been used for everything from jewelry to disaster relief emergencies.

Mr. President, on October 2, 1974, I introduced amendment No. 1873 to the Foreign Assistance Act of 1961, requiring the President merely to report all properties of \$50 or more purchased with appropriated funds which were given by him or any officer in the Federal Government to any person of any foreign country. This amendment was modified to prohibit the giving and receiving of gifts by U.S. and foreign officials and was passed by voice vote on that day.

Unfortunately, the entire Foreign Assistance Act was recommittees to the Senate Appropriations Committee for further consideration and the amendment died.

Then on December 4, 1974, I introduced another amendment to S. 3394, the Foreign Assistance Act, that would have prohibited the expenditure of taxpayer funds for the giving of gifts costing more than \$50 to foreign heads of state or other foreign dignitaries. Also, contained in that amendment was language prohibiting the receipt of gifts from these foreign officials. Both Senator McGovern and Senator Brooke cosponsored this amendment with me and I was delighted to have this bipartisan support.

However, with assurances from my distinguished colleague Senator McGovern of the Foreign Relations Committee, that subsequent comprehensive, corrective legislation on gift-giving would receive careful committee consideration, I withdrew my amendment.

In May of 1975 I introduced S. 1762, a bill to prohibit the giving of gifts and the acceptance of gifts by Federal employees. It was referred to the Foreign Relations Committee without action.

Finally, on September 11, 1975, I reintroduced my gift-giving and receiving amendment to the Foreign Relations Authorization Act of 1976-1977—the same type of amendment that was accepted back in October of 1974 on the foreign aid bill, but subsequently died with that recommittees bill.

Once again, in an attempt not to bog down the passage of that important appropriation bill, I withdrew my amendment. I am now reintroducing it, and the chairman of the Foreign Relations Committee, that hearings would be held on

THE PRESIDENT. Gift giving has nearly quadrupled over the past 25 years, and it is costing the taxpayer \$1 million per year to run this Federal "giveaway" program and to monitor the receipt of gifts from abroad. The American taxpayer is fed up and hopefully my colleagues in the Senate will see fit to give the beleaguered American taxpayer a "legislative refund" by passing this amendment prior to April 15.

Mr. President, just a few more words about what I mean when referring to gift giving and receiving. The State Department has informed my office and the General Accounting Office that at least \$1 million annually is spent in the purchase and giving of gifts to various foreign dignitaries. We all remember the \$3 million VEH3A Sikorsky helicopter this country gave to Egyptian President Anwar Sadat—a helicopter that is now rusting in the Egyptian desert. The GAO concluded that this gift was contrary to the "Intent of Congress."

During former President Nixon's trip to the Near East, 76 other personal gifts were provided to local authorities. These ranged from Steuben crystal to more expensive American works of art. The funds for this gift-giving came out of the \$2.1 million slush fund called the Emergencies in the Diplomatic and Consular Services Account of the Department of State.

And then there was the \$10 million Egyptian Pound gift to the favorite charity of Mrs. Anwar Sadat.

Mr. President, the State Department has refused to disclose the purpose of these gifts and the recipients of each. They continue to operate in secrecy—handing out tens of thousands of American tax dollars without any accountability or review.

Now Mr. President, the foreign policy of this country will not rise or fall on gift giving. We will not conclude a new arms control agreement or a Middle East peace agreement because of gift giving or receiving. This amendment recognizes that fact and establishes a Federal policy that is consistent with the regulations that apply to many other federal employees here at home. Small gifts for diplomatic purposes would still be permissible—those that cost under \$50 each. But extravagant gifts clearly would be prohibited and that makes good sense for the taxpayers of this country.

Mr. President, I am hopeful that the manager of the bill can accept the amendment.

Mr. SPARKMAN. Mr. President, I may say that we discussed this rather fully last year.

Mr. PROXMIER. That is right.

Mr. SPARKMAN. I am ready to accept it.

Mr. CASE. This has been accepted by the Senate previously and I join my chairman and accept the amendment now.

Mr. SPARKMAN. I yield back the remainder of my time.

Mr. PROXMIER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back the question is on agreeing to the amendment of the Senator from Wisconsin.

It was agreed to.

(29 March 1976)

POSSIBLE AMENDATORY LANGUAGE FOR A GIFT RESTRICTION PROVISION SIMILAR OR IDENTICAL TO THAT PROPOSED BY SENATOR WILLIAM PROXMIRE ON 29 MARCH 1976:*

1. Amend Section 20 (a) to read [no property purchased with] funds appropriated under this Act [in excess of \$50 and no] funds appropriated under this Act [in excess of \$50 may be given to any person of any foreign country.]

Comment: This amended section would limit the dispositive provisions of the gift amendment to funds appropriated under the State Department Authorization Act and therefore would not include monies available to and utilized by the CIA.

2. Amend Section 20 (b) (1) to read [any gift given on behalf of any person] acting in any diplomatic or counselor activity or capacity on behalf of the U. S. Government [to any official of any foreign country; and].

Comment: As amended, this section would restrict gift giving only by those U. S. officials acting in furtherance of their official diplomatic or counselor duties and not actions undertaken by Agency officers in the performance of their responsibilities as intelligence officers.

3. Delete entirely that section of the Proxmire amendment which would amend Section 7342 of Title 5, U.S.C.

Comment: The deletion of this amendment would retain existing statutory restrictions related to the acceptance and retention of gifts by U. S. Government employees; Section 7342 of Title 5 fully and properly addresses this issue.

*original language bracketed and new language underlined

Mr. PROXMIRE. Mr. President, I call up my amendment No. 1521 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, between lines 17 and 18, insert the following new section:

"FOREIGN GIFTS"

"Sec. 103. (a) The Act entitled 'An Act to provide certain basic authority for the Department of State', approved August 1, 1956, as amended, is amended by adding at the end thereof the following new section:

"Sec. 20. (a) No property purchased with appropriated funds in excess of \$50 and no appropriated funds in excess of \$50 may be given to any person of any foreign country.

"(b) Not later than thirty days following the end of each fiscal year, the President shall transmit a report to the House of Representatives and Committee on Foreign Relations of the Senate describing fully and completely—

"(1) any gift given on behalf of any person by, or with the assistance of, any officer or employee of the United States to any person of any foreign country; and

"(2) the activities of such officer or employee with respect to the giving of such gift.

"(c) Any financial transaction involving any funds made available to meet unforeseen emergencies arising in the Diplomatic and Consular Service shall be audited by the Comptroller General and reports thereon made to the Congress to such extent and at such times as he may determine necessary. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property pertaining to such financial transaction and necessary to facilitate the audit."

"(b) (1) Section 7342 of title 5, United States Code, is amended—

"(A) by striking out the section caption and inserting in lieu thereof the following: "'7342. Foreign gifts and decorations";

and
"(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Congress does not consent to the accepting or retaining by an employee of any gift. No gift may be accepted by an employee."

"(2) Item 7342 in the analysis of subchapter IV of chapter 73 of such title 5 is amended to read as follows:

"7342. Foreign gifts and decorations."

"(c) The amendments made by this section shall apply only with respect to gifts tendered on or after the date of enactment of this Act."

On page 3, line 20, strike out "Sec. 103." and insert in lieu thereof "Sec. 104."

On page 4, line 2, strike out "Sec. 104." and insert in lieu thereof "Sec. 105."

On page 4, line 17, strike out "Sec. 105." and insert in lieu thereof "Sec. 106."

On pages 8, line 14, strike out "Sec. 106." and insert in lieu thereof "Sec. 107."



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DEPARTMENT OF STATE

Washington, D.C. 20520

June 9, 1976

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STATINTL

Dear

I refer to the meeting held in your office on February 10 in which Mr. Gookin and Miss Guilbault of my staff participated to discuss aspects of CIA compliance with the Foreign Gifts and Decorations Act of 1966. I regret our delay in responding to the several questions you raised at that time, which was occasioned by the careful consideration we have had to give the matter.

You inquired, I understand, about the deposit with the Chief of Protocol of gifts received by Agency personnel, and proposed turning over particular gifts without furnishing the name of the donor or donee. The Department's position on this question is that it would prefer to have the names of both donor and donee. We can appreciate, however, that in some cases the Agency would prefer to withhold certain information when in its judgment it is deemed necessary to protect intelligence sources. You are aware, I am sure, that neither the Act nor the regulations issued pursuant to it stipulates how gift records should be maintained in the Office of Protocol; the existing requirement to furnish names of donor and donee and other pertinent information is a procedural one designed in the interest of good record-keeping. We believe, therefore, that exceptions to the requirement can be made for the Central Intelligence Agency. Any requests for information which might arise on Agency gifts not available in the Department's files would, of course, have to be referred to the Agency.

STATINTL

You also suggested that Agency-held gifts be transferred to the Department of State in small groups over a period of time. We believe that piecemeal transfer of such gifts could lead to unnecessary and embarrassing questions. We therefore recommend that the Agency's initial

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transfer of gifts comprise all items which it now is holding for deposit with the Chief of Protocol.

Finally, your question regarding release of certain foreign gifts received by CIA personnel prior to October 15, 1966, has been addressed in a separate letter to Mr. Janney dated June 8, 1976.

You will be interested to know that each of the matters referred to above has been discussed informally with General Accounting Office site audit staff representatives this week. These representatives are familiar with the Act and with GAO's audit on compliance. They have expressed no objection to the positions taken in this letter.

Sincerely yours,

Hampton Davis

Hampton Davis
Assistant Chief of Protocol

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